

SCHEDULE 1

Regulations 4(1) and 29(1)

Eligible Students

1. A person who on the first day of the first academic year of the course –
 - (a) is settled in the United Kingdom within the meaning of the Immigration Act 1971(1), and
 - (b) meets the residence conditions referred to in paragraph 8.
2. A person who is a refugee, ordinarily resident in the United Kingdom and Islands, who has not ceased to be so resident since he was recognised as a refugee, or who is the spouse, child or step-child of such a refugee, in each case who meets the residence condition in paragraph 8(a).
3. A person who –
 - (a) (i) has been informed by a person acting under the authority of the Secretary of State for the Home Department that, although he is considered not to qualify for recognition as a refugee, it is thought right to allow him to enter or remain in the United Kingdom, or
(ii) before 1st July 1993 applied to the Secretary of State for the Home Department for recognition as a refugee and who has been informed by a person acting under the authority of the Secretary of State for the Home Department that it is thought right to allow him to enter or remain in the United Kingdom,
 - (b) has been granted leave to enter or to remain accordingly, and
 - (c) has been ordinarily resident in the United Kingdom and Islands throughout the period since he was granted leave to enter or remain,or who is the spouse, child or step-child of such a person, where the person, or as the case may be the spouse, child or step-child meets the residence conditions referred to in paragraph 8.
4. A person who is an EEA migrant worker who –
 - (a) is entitled to support by virtue of Article 7(2) or (3) of Council Regulation (EEC) No. 1612/68 on freedom of movement of workers within the Community, as extended by the EEA Agreement(2), or, where he is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than a national of another member State in relation to matters which are the subject of Article 7(2) and (3); and
 - (b) meets the residence conditions referred to in paragraph 8.
5. A person who is the spouse of an EEA migrant worker and who –
 - (a) is installed in the United Kingdom with his spouse, and
 - (b) meets the residence conditions referred to in paragraph 8.
- 6.—(1) A person who is the child of an EEA migrant worker and who –
 - (a) is entitled to support by virtue of Article 12 of the above mentioned Council Regulation, or, where his migrant worker parent is a national of the United Kingdom, by virtue of an enforceable Community right to be treated no less favourably than the child of a national of another member State in relation to matters which are the subject of Article 12, and
 - (b) meets the residence conditions referred to in paragraph 8.

(2) For the purposes of this paragraph “parent” includes a guardian, any other person having parental responsibility for a child and any person having care of a child, and “child” shall be construed accordingly.

(1) 1971 c. 77; amended by the British Nationality Act 1981 (c. 61), section 39 and Schedule 4; by the Immigration Act 1988 (c. 14), sections 1, 3, 4, 6 and 10 and the Schedule, by the Asylum and Immigration Appeals Act 1993 (c. 23), sections 10 to 12

(2) O.J. No. L257, 19.10.68, p. 2 (O.J./S.E. 1968(II) p. 475)

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7. A person who is a national of a member State of the European Community or the child of such a national –
 - (a) whose course is provided by an institution or institutions in Northern Ireland, or by an institution or institutions in Northern Ireland in conjunction with an institution or institutions outside the United Kingdom, and
 - (b) who meets the residence conditions referred to in paragraph 8(b) and (c).
8. The residence conditions referred to above are that –
 - (a) the person is ordinarily resident in Northern Ireland on the first day of the first academic year of the course;
 - (b) the person has been ordinarily resident throughout the three year period preceding the first day of the first academic year of the course, in the case of a person mentioned in paragraphs 1 or 3, in the United Kingdom and Islands, or, in the case of a person mentioned in paragraphs 4, 5, 6 or 7, in the European Economic Area; and
 - (c) his residence in the United Kingdom and Islands, or in the European Economic Area, as the case may be, has not during any part of the period referred to in sub-paragraph (b) been wholly or mainly for the purpose of receiving full-time education.

SCHEDULE 2

Regulations 5(1) and 30(1)

Designated Courses

1. A first degree course other than a course referred to in paragraph 4.
2. A course for the Diploma of Higher Education.
3. A course for the Higher National Diploma or Higher National Certificate of –
 - (a) the Business & Technician Education Council; or
 - (b) the Scottish Qualification Authority.
4. A course for the initial training of teachers, including such a course leading to a first degree.
5. A course for the further training of teachers or youth and community workers.
6. A course in preparation for a professional examination of a standard higher than that of –
 - (a) examinations at advanced level for the General Certificate of Education or the examination at higher level for the Scottish Certificate of Education; or
 - (b) the examination for the National Certificate or the National Diploma of either of the bodies mentioned in paragraph 3,not being a course for entry to which a first degree (or equivalent qualification) is normally required.
7. A course providing education (whether or not in preparation for an examination) the standard of which is –
 - (a) higher than that of courses providing education in preparation for any of the examinations mentioned in paragraph 6(a) or (b) above; but
 - (b) not higher than that of a first degree course,and for entry to which a first degree (or equivalent qualification) is not normally required.

SCHEDULE 3

Regulation 24(1)

Financial Assessment

Part I

Student's Income

Calculation of student's income

1.—(1) In calculating an eligible student's income for the purposes of regulation 24 there shall be taken into account his income (reduced by income tax and social security contributions) from all sources, and any payment referred to in head (b) and (c), whether or not it is income, but there shall be disregarded the following –

- (a) in a case not covered by paragraph (x), the first £880 of income of any description, or where the eligible student is a lone parent, the first £1,915 of income of any description, in each case other than any sum treated as income under sub-paragraph (6);
- (b) the first £4,000 of any payment by way of scholarship, studentship, exhibition, bursary, award, grant, allowance or benefit however described payable in connection with the student's attendance on the course, otherwise than under the Order and regulations made under it;
- (c) in the case of a student in gainful employment, the first £1,075 of any payment by way of remuneration (reduced by income tax and social security contributions) paid in respect of any period for which he has leave of absence or is relieved of his normal duties for the purpose of attending the course; except that, if the person's course is a course for the initial training of teachers referred to in paragraph 4 of Schedule 2 during which the periods of full-time attendance, including attendance for the purpose of teaching practice, are in aggregate less than 6 weeks, any payments by way of remuneration shall be disregarded;
- (d) any payment under a bursary or award of similar description made to him under Article 44 of the Health and Personal Social Services (Northern Ireland) Order 1972 or section 63 of the Health Services and Public Health Act 1968;
- (e) any allowance paid to him under sections 73(f) and 74(1) of the Education (Scotland) Act 1980 in respect of a course leading to a qualification in a healthcare profession, other than as a medical doctor or dentist;
- (f) any grant to facilitate teacher training paid to the eligible student under regulations made under section 50(1) of the Education (No. 2) Act 1986 or any payment made in respect of the student's training as a teacher by an institution to which grants, loans or other payments for that purpose are provided under section 5 of the Education Act 1994⁽³⁾ or under section 65(3) of the Further and Higher Education Act 1992;
- (g) in the case of an eligible student for whose benefit any income is applied or any payments are required to be applied as described in paragraph 5(5), the whole of that income or those payments if a parental contribution ascertained in accordance with Part II or a spouse's contribution ascertained in accordance with Part III is applicable (at whatever amount, including nil, that contribution is ascertained to be);
- (h) any pension, allowance or other benefit paid by reason of a disability or incapacity to which the eligible student is subject and any war widow's or war widower's pension;

(3) 1994 c. 30.

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- (i) any bounty received as a reservist with the armed forces or in the Royal Irish Regiment or in the Police Service of Northern Ireland Reserve;
- (j) remuneration for work done during the academic year of the eligible student's course;
- (k) in the case of an eligible student in whose case a parental contribution is by virtue of Part II of this Schedule applicable (at whatever amount, including nil, that contribution is ascertained to be) any payment which is made under covenant by a parent by reference to whose income that contribution falls to be ascertained;
- (l) any payments made for a specific educational purpose otherwise than to meet such fees as are mentioned in Part III and living costs as are mentioned in Parts IV and V;
- (m) child benefit;
- (n) any allowance payable to the eligible student by an adoption agency in accordance with regulations made under Article 59A of the Adoption (Northern Ireland) Order 1987;
- (o) any guardian's allowance to which he is entitled under section 77 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (p) in the case of an eligible student with whom a child in the care of a Health and Social Services Board or a Health and Social Services Trust is boarded out, any payment made to him in pursuance of Article 27(2)(a) of the Children (Northern Ireland) Order 1995;
- (q) any payments made to the eligible student in pursuance of an order made under Article 15 of and Schedule 1 to the Children (Northern Ireland) Order 1995 in respect of a person who is not his child or any assistance given by a Health and Social Services Board or Health and Social Services Trust pursuant to Articles 35 and 36 of that Order;
- (r) income support or Working Families' Tax Credit under Part VII of the Social Security Contributions and Benefits (Northern Ireland) Act 1992; or any transitional addition, personal expenses addition or special transitional addition payable under Part III of the Income Support (Transitional) Regulations (Northern Ireland) 1987(4);
- (s) any housing benefit granted to the eligible student in pursuance of a statutory scheme under section 122(1)(d) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(5) or a scheme under Part VII of the Social Security Contributions and Benefits Act 1992(6);
- (t) in a case not covered by paragraph (x), the first £3,340 of any pension, allowance or other benefit payable by reason of the eligible student's old age, his retirement, the death of his spouse or parent or another person on whom he was wholly or mainly financially dependent, or by reason of his military or other public service;

(4) S.R. 1987 No. 460; Part III was amended by S.R. 1988 Nos. 132 and 153, S.R. 1989 Nos. 371 and 485, S.R. 1991 No. 341, S.R. 1992 No. 284 and S.R. 1995 No. 71

(5) 1992 c. 7; the scheme under section 122(1)(d) is currently constituted by the provisions of the Housing Benefit (General) Regulations (Northern Ireland) 1987 (S.R. 1987 No. 461 as amended by S.R. 1988 Nos. 117, 186, 314 and 424, S.R. 1989 Nos. 125, 260, 366 and 408, S.R. 1990 Nos. 33, 136, 137, 297, 305, 345, 398 and 442, S.R. 1991 Nos. 47, 176, 204, 337 and 520, S.R. 1992 Nos. 6, 35, 85, 141, 201, 284, 298, 404, 435, 444 and 549, S.R. 1993 Nos. 145, 149, 195, 218, 233, 373, 381 and 414, S.R. 1994 Nos. 65, 80, 88, 137, 266, 274 and 335, S.R. 1995 Nos. 64, 71, 101, 129, 223, 280, 367, 410 and 481, S.R. 1996 Nos. 11, 73, 84, 92, 93, 111, 115, 181, 221, 291, 334, 375, 405, 448, 476 and 662 and S.R. 1997 Nos. 3, 4, 22, 113, 123, 126, 127, 130, 152 and 170, S.R. 1997 Nos. 330, 331, 354, 376, 377, 412, 452, 253, 454, 483, 514, 515 and 541, S.R. 1998 Nos. 2, 59, 73, 81, 112, 114, 176, 182, 198, 204, 232, 252, 324, 325, 327, 348, 421 and 445, S.R. 1999 Nos. 50, 158, 249, 275, 298, 317, 342, 372, 381, 382, 385, 391, 416, 472 and 474, S.R. 2000 Nos. 1, 2, 38, 65, 71, 74, 109, 125, 221, 241, 242, 245, 249, 260, 265, 268, 365, 366, 367 and 369, S.R. 2001 Nos. 4, 25, 41, 79, 99, 120, 134, 150, 157, 175, 176 and 179)

(6) 1992 c. 4; the scheme under Part VII is currently constituted by the provisions of the Housing Benefit (General) Regulations 1987 (S.I.1987/1971) as amended by S.I. 1988/661, 909, 1444 and 1971, S.I. 1989/416, 566 and 1017, S.I. 1990/127, 546, 671, 1549, 1657, 1775 and 2564, S.I. 1991/235, 1175, 1599, 2695 and 2742, S.I. 1992/50, 201, 432, 1101, 1326, 1585, 2148 and 3147, S.I. 1993/317, 349, 518, 963, 1150, 1249, 1540 and 2118, S.I. 1994/470, 542, 578, 781, 1003, 1608, 1807, 1924, 2137, 2139 and 3061, 1995/511, 560, 625, 626, 1339 and 1742, S.I. 1995/1644, 2303, 2792, 2868 and 3282, S.I. 1996/30, 194, 462, 965, 1510, 1759, 1803, 1944, 2006, 2432, 2518, 2545 and 3195 and S.I. 1997/65, 454, 543, 584 and 582)

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- (u) any payments made to the eligible student under the action scheme of the European Community for the mobility of university students known as ERASMUS(7), the European Community programme for foreign language competence known as LINGUA(8) or the European Community programme known as LEONARDO DA VINCI(9);
- (v) any payments made to the eligible student out of support funds held by the institution at which he attends his course;
- (w) any payments made to the eligible student for the maintenance of his child by virtue of any agreement, instrument or enactment;
- (x) where a parental contribution does not apply because the eligible student falls within paragraph 3(1) of this Schedule and a spouse's contribution does not apply under Part III of this Schedule, the first £7,500 of income of any description, other than any sum treated as income under sub-paragraph (6).

(2) Where income may be disregarded under more than one of the sub-paragraphs of paragraph (1) it shall be disregarded under the sub-paragraph or sub-paragraphs which will result in the largest amount of the eligible student's income from all sources being disregarded under paragraph (1).

(3) Where an eligible student is a person mentioned in paragraph 7 of Schedule 1 and not in any other paragraph and his income arises from sources or under legislation different from sources or legislation normally relevant to a person mentioned in paragraph 1 of Schedule 1 his income shall not be disregarded in accordance with paragraph (1) but shall be disregarded to the extent necessary to ensure that he is treated no less favourably than a person in similar circumstances in receipt of similar income who is mentioned in Schedule 1 would be treated.

(4) Where an eligible student makes any payment for the maintenance of his child or former spouse or person who lived with him as his spouse by virtue of any agreement, instrument or enactment, the amount of such payment shall be deducted in calculating his income for the purposes aforesaid.

(5) In the case of an eligible student who makes any payment in pursuance of an obligation incurred before the first year of his course, in calculating his income for the purposes aforesaid there shall be deducted therefrom –

- (a) if, in the opinion of the Department, the obligation had been reasonably so incurred, an amount equal to the payment in question;
- (b) if, in its opinion, only a lesser obligation could have been reasonably so incurred, such correspondingly lesser amount (if any) as appears to it appropriate;

except that no deduction shall be made from the income of a student who has a spouse who is a dependant for the purpose of regulation 16 and, under regulation 16(14) the payment is taken into account in determining the spouse's income.

(6) In a case where the eligible student is the parent or step-parent of an eligible student in respect of whom a contribution is ascertained under Part II of this Schedule or of a child who holds an award in respect of which a parental contribution is applicable, so much of the amount (if any) by which the contribution is reduced under paragraph 4(3) as the Department considers just shall be treated as part of the eligible student's income for the purposes of this regulation.

(7) Where the eligible student is a lone parent having one or more dependent children under the age of 19 and he has elected to be ineligible for grant under regulation 17 in accordance with regulation 16(6), he may also elect to be ineligible for grant under regulation 16 and to have disregarded in calculating his income under this regulation £2,560 in respect of his only or eldest such child and £810 in respect of every other such child.

(7) O.J. No. L166, 25.6.87, p. 20

(8) O.J. No. L239, 16.8.89, p. 24

(9) O.J. No. L340, 29.12.94, p. 8

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(8) Where the eligible student receives income in a currency other than sterling the value of the income shall be –

- (a) if the student purchases sterling with the income the amount of sterling the student receives for it; and
- (b) otherwise the value of the sterling which the income would purchase using the rate for the month in which it is received published by the Office for National Statistics in “Financial Statistics”.

Part II

Parental Contribution

Definitions and construction of Part II

2.—(1) In this Part of this Schedule –

“child” includes a step-child but, except in paragraph 4, does not include a child who holds a statutory award and, except as otherwise provided by paragraph 5, “parent” shall be construed accordingly;

“financial year” means, subject to sub-paragraph (2), the period of 12 months for which the income of the eligible student’s parent is computed for the purposes of the income tax legislation which applies to it;

“gross income” has the meaning assigned to it by paragraph 5;

“income of the student’s parent” means the taxable income of the parent from all sources computed as for the purposes of the Income Tax Acts or as for the purposes of the income tax legislation of another member State of the European Community which applies to the parent’s income, or where the legislation of more than one member State applies in respect of the same period, as for the purposes of the legislation pursuant to which the Department considers that the parent will pay the largest amount of tax in that period, except as otherwise provided by paragraph 5 or 6;

“residual income” means, subject to sub-paragraph (2), the balance of gross income remaining in any year after the deductions specified in paragraph 6 have been made.

(2) In the case of an eligible student whose parent’s income is subject to the income tax legislation of the Republic of Ireland, for the purposes of this Part of this Schedule the income of the student’s parent in the period from 1st January 2001 to 5th April 2001 shall be treated not only as income in the financial year ending on 5th April 2001 but also as income in the period from 6th April 2001 to 31st December 2001 and the latter period shall be treated as a financial year notwithstanding that it is less than 12 months in duration.

(3) Where, in a case not falling within paragraph 5(3) or (4), the Department is satisfied that the income of the parent in any financial year is as a result of some event beyond his control likely to be, and to continue after that year to be, not more than 85 per cent of his income in the financial year preceding that year, he may, for the purpose of enabling the eligible student to attend the course without hardship, ascertain the parental contribution for the year of his course in which that event occurred by taking as the residual income the average of the residual income for each of the financial years in which that year falls.

(4) Where the eligible student’s parent satisfies the Department that his income is wholly or mainly derived from the profits of a business or profession carried on by him, then, if the Department and the parent so agree, any reference in this Part of this Schedule to a financial year shall be construed as a reference to a year ending with such date as appears to the Department expedient

having regard to the accounts kept in respect of that business or profession and the periods covered thereby.

(5) Where a parent is in receipt of any income which does not form part of his taxable income by reason only that –

- (a) he is not resident, ordinarily resident or domiciled in the United Kingdom, or where the parent's income is computed as for the purposes of the income tax legislation of another member State of the European Community, not so resident, ordinarily resident or domiciled in that member State;
- (b) the income does not arise in the United Kingdom, or where the parent's income is computed as for the purposes of the income tax legislation of another member State, does not arise in that member State; or
- (c) the income arises from an office, service or employment, income from which is exempt from tax in pursuance of any legislation,

his income for the purposes of this Part of the Schedule shall be computed as though the income first mentioned in this sub-paragraph were part of his taxable income.

(6) Where the income of the eligible student's parent is computed as for the purposes of the income tax legislation of another member State –

- (a) it shall be computed in the currency of that member State;
- (b) the value of any deduction mentioned in paragraph 6(2) shall be the amount of that currency required to purchase the sterling value of the deduction; and
- (c) the value of the sterling which the income of the eligible student's parent in that currency would purchase shall be determined, and shall constitute the income of the student's parent for the purposes of this Part.

(7) The rate applied in determining the sterling value of another currency under sub-paragraph (5) shall be the rate for the month in which the last day of the financial year in question falls published by the Office for National Statistics in "Financial Statistics".

Application of Part II

3.—(1) A parental contribution ascertained in accordance with this Part shall be applicable in the case of every eligible student except where –

- (a) he is aged 25 or over on the first day of the academic year in respect of which the contribution is applicable;
- (b) he has supported himself out of his earnings for periods before the first academic year of the course aggregating not less than three years;
- (c) he has been married before the beginning of the academic year in respect of which the contribution is applicable, whether or not the marriage is still subsisting;
- (d) he has no parent living;
- (e) the Department is satisfied that his parents cannot be found or that it is not reasonably practicable to get in touch with them;
- (f) he is irreconcilably estranged from his parents;
- (g) he has pursuant to an order of a competent court been in the custody or care of or has been provided with accommodation by –
 - (i) a state authority or agency, national, regional or local,
 - (ii) a voluntary or charitable organisation, or
 - (iii) any person who is not the student's parent,

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throughout any three month period ending on a date on or after the date on which he attains the age of 16 and before the first day of his course; provided that he has not at any time from the beginning of the three month period to the first day of his course in fact been under the charge or control of his parents;

- (h) his parents are residing outside the European Community and the Department is satisfied either that –
 - (i) the assessment of a parental contribution would place those parents in jeopardy; or
 - (ii) it would not be reasonably practicable for those parents to send any such contribution to the United Kingdom;
 - (i) paragraph 5(7) applies and the parent whom the Department considered the more appropriate for the purposes of that sub-paragraph has died;
 - (j) he is a member of a religious order who resides in a house of his order.
- (2) For the purposes of sub-paragraph (1)(b) an eligible student shall be treated as having supported himself out of his earnings for any period or periods for which –
- (a) he was participating in arrangements for training for the unemployed under any scheme operated by, sponsored or funded by any state authority or agency, national, regional or local;
 - (b) the student was in receipt of benefit payable by any state authority or agency, national, regional or local, in respect of a person who is available for employment but who is unemployed;
 - (c) the student was available for employment and had complied with any requirement of registration imposed by a body referred to in paragraphs (a) or (b) as a condition of entitlement for participation in arrangements for training or receipt of benefit;
 - (d) the student held a State Studentship or comparable award;
 - (e) the student received any pension, allowance or other benefit paid by reason of a disability to which he is subject, or by reason of confinement, injury or sickness, paid by any state authority or agency, national, regional or local, by an employer or any former employer, or by any other person; or
 - (f) the student could not reasonably have been expected to support himself out of his earnings because he had the care of a person under the age of 18 years who was wholly or mainly financially dependent upon him.
- (3) For the purposes of sub-paragraph (1)(f) an eligible student shall be regarded as irreconcilably estranged from his parents if, but not only if, he has communicated with neither of them for the period of one year before the beginning of the year for which payments in pursuance of his support fall to be made.

Parental contribution

4.—(1) The parental contribution shall, subject to sub-paragraphs (2) and (3) be in any case in which the residual income is £20,480 or more, £45 with the addition of £1 for every complete £12.50 by which it exceeds £20,480, reduced in each case in respect of each child of the parent (other than the student) who is wholly or mainly financially dependent on him on the first day of the year for which the contribution falls to be ascertained, by £81; and in any case in which the residual income is less than £20,480 the parental contribution shall be nil.

(2) The amount or (where a contribution is ascertained in respect of more than one child of the parent) the aggregate amount of the parental contribution shall in no case exceed £7,185.

(3) For any year in which a statutory award is held by –

- (a) more than one child of the parent;
- (b) the parent; or
- (c) the student's step-parent,

the parental contribution for the eligible student shall be such proportion of any contribution ascertained in accordance with this Part as the Department (after consultation with any other authority involved) considers just; provided that where a contribution is ascertained in respect of more than one child of the parent the aggregate amount of the contributions in respect of each shall not exceed the amount of the contribution that would be ascertained if only one child held an award or, if that amount is different in respect of each child, the lower or (as the case may be) lowest such amount.

Gross income

5.—(1) For the purposes of this paragraph “preceding financial year” means the financial year preceding the academic year in respect of which the resources of the eligible student fall to be assessed and “current financial year” means the financial year which includes the first day of the academic year; provided that where references to a financial year fall to be construed in accordance with paragraph 2(3) as references to a year ending less than five months before the beginning of an academic year of the eligible student's course, “preceding financial year” shall mean the financial year last ending five or more months before the academic year in respect of which the resources of the eligible student fall to be assessed and “current financial year” shall mean the financial year ending within those five months.

(2) Subject to the provisions of this paragraph, “gross income” means the income of the student's parent in the preceding financial year or, for the purpose of calculating residual income under paragraph 2(2), in the financial year there mentioned.

(3) Where the Department is satisfied that the sterling value of the income of the student's parent in the current financial year is likely to be not more than 85 per cent. of the sterling value of his income for the preceding financial year, it may for the purpose of calculating the parental contribution ascertain the gross income by reference to the current financial year; and, in such case, sub-paragraph (2) shall have effect, in relation to the academic year in respect of which the eligible student's resources fall to be assessed and, if the Department so determines, any subsequent year, as if the reference therein to the preceding financial year were a reference to the current financial year.

(4) Where –

- (a) one of the eligible student's parents dies either before or during the year in respect of which the resources of the student fall to be ascertained (“the relevant year”); and
- (b) that parent's income has been or would be taken into account for the purpose of determining the parental contribution,

the parental contribution shall –

- (c) where the parent dies before the relevant year, be determined by reference to the income of the surviving parent; or
- (d) where the parent dies during the relevant year, be the aggregate of –
 - (i) the appropriate proportion of the contribution determined by reference to the income of both parents, that is to say such proportion thereof as the part of the relevant year during which both parents were alive bears to the full year; and
 - (ii) the appropriate proportion of the contribution determined by reference to the income of the surviving parent, that is to say such proportion thereof as the part of the relevant year remaining after the parent dies bears to the full year.

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(5) Without prejudice to sub-paragraph (6), where, in pursuance of any trust deed or other instrument or by virtue of any applicable legislation any income is applied by any person for or towards the maintenance, education or other benefit of the eligible student or of any person dependent on the student's parent, or payments made to his parent are required to be so applied, that income, or those payments, shall be treated as part of the gross income of the parent.

(6) Where any such benefit as is mentioned in paragraph 1(1)(b) of Part I of this Schedule is provided, by reason of the parent's employment, for any member of his family or household who is an eligible student (whether the student or some other such member) then that benefit shall not be treated as part of the gross income of the parent.

(7) Where the parents do not ordinarily live together throughout the year in respect of which the resources of the eligible student fall to be ascertained ("the relevant year"), the parental contribution shall be determined by reference to the income of whichever parent the Department considers the more appropriate in the circumstances.

(8) Where the parents do not ordinarily live together for part only of the relevant year, the parental contribution shall be the aggregate of –

- (a) the appropriate proportion of the contribution determined as provided in sub-paragraph (7), that is to say such proportion thereof as the part of the relevant year for which the parents do not so live together bears to the full year; and
- (b) the appropriate proportion of the contribution determined without regard to this sub-paragraph, that is to say, such proportion thereof as the part of the relevant year for which the parents so live together bears to the full year.

(9) Where one of the eligible student's parents is his step-parent the parental contribution shall be ascertained by reference only to the income of the other parent.

Deductions

6.—(1) For the purposes of determining the income of a student's parent (and, accordingly, the parent's gross income), in computing his taxable income as for the purposes of the Income Tax Acts or for the purposes of the income tax legislation of another member State of the European Community any deductions which fall to be made or exemptions which are permitted –

- (a) by way of personal reliefs provided for in Chapter I of Part VII of the Income and Corporation Taxes Act 1988⁽¹⁰⁾, or where the parent's income is computed as for the purposes of the income tax legislation of another member State, any comparable personal reliefs;
- (b) in respect of any payment made by the parent under covenant;
- (c) in pursuance of any legislation or rule of law with the effect that payments which for the purposes of the law of the United Kingdom are treated as income are not treated as income; or
- (d) without prejudice as aforesaid, of a kind mentioned in sub-paragraph (2), shall not be made or permitted.

(2) For the purpose of determining a parent's residual income there shall be deducted from his gross income –

- (a) in respect of any person, other than a spouse, child or eligible student, wholly or mainly financially dependent on the parent during the year for which the contribution falls to be ascertained, the amount by which £2,360 exceeds the income of that person in that year;
- (b) the gross amount of any premium or sum relating to a pension (not being a premium payable under a policy of life insurance) in respect of which relief is given under

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section 266, 273, 619 or 639 of the Income and Corporation Taxes Act 1988, or where the parent's income is computed as for the purposes of the income tax legislation of another member State, the gross amount of any such premium in respect of which relief would be given if that legislation made provision equivalent to the Income Tax Acts;

- (c) where the parents ordinarily live together and one of them is incapacitated, or where the parent ordinarily lives with a person who is not the other parent of the eligible student, but that person is the husband or wife of the parent or lives with the parent as the parent's husband or wife, and one of them is incapacitated, so much of the cost in wages of domestic assistance as does not exceed £1,850, if the other parent or person described in this sub-paragraph is wholly or mainly financially dependent on the parent during the year for which the contribution falls to be ascertained;
- (d) where the parent does not ordinarily live with the other parent or with another person as husband or wife or who is their husband or wife, and the parent is incapacitated, so much of the cost in wages of domestic assistance as does not exceed £1,850;
- (e) in respect of additional expenditure incurred by reason of the fact that the parent lives in a place where the cost of living is higher than that cost in the United Kingdom, such sum (if any) as the Department considers reasonable in all the circumstances;
- (f) in the case of a parent who is an eligible student or who holds a statutory award, £950;
- (g) any payments made to the parent of the student in pursuance of an order of a competent court for the benefit of a child who is not his child of whom he has custody or care or for whom he provides accommodation;
- (h) where the parent's income is computed as for the purposes of the income tax legislation of another member State, sums equivalent to any amounts which would not be treated as taxable income if that legislation made provision equivalent to the Income Tax Acts.

(3) In any case where income is computed as for the purposes of the Income Tax Acts by virtue of paragraph 2(4), there shall be deducted from the parent's gross income sums equivalent to the deductions mentioned in sub-paragraph (2)(b), provided that any sums so deducted shall not exceed the deductions that would be made if the whole of the parent's income were in fact taxable income for the purposes of the Income Tax Acts.

Part III

Spouse's Contribution

Application of Part III

7.—(1) Subject to paragraph (2), a spouse's contribution ascertained in accordance with this Part shall be applicable in the case of –

- (a) every man student ordinarily living with his wife;
- (b) every man student ordinarily living with a woman as his wife, if he falls within paragraph 3(1)(a) and he is on a course which began on or after 1st September 2000 unless –
 - (i) his course is an end-on course in relation to a course which began before 1st September 2000; or
 - (ii) his course is an end-on course in relation to such an end-on course as is mentioned in sub-paragraph (b)(i).
- (c) every woman student ordinarily living with her husband; and

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (d) every woman student ordinarily living with a man as her husband, if she falls within paragraph 3(1)(a) and she is on a course which began on or after 1st September 2000 unless –
 - (i) her course is an end-on course in relation to a course which began before 1st September 2000; or
 - (ii) her course is an end-on course in relation to such an end-on course as is mentioned in sub-paragraph (d)(i).
- (2) Paragraph (1) shall not apply to –
 - (a) a student in whose case a parental contribution is applicable in accordance with Part II; and
 - (b) an eligible student whose child holds an award in respect of which a parental contribution is applicable or whose child is an eligible student in respect of whom a contribution is ascertained under Part II of this Schedule.

Spouse's contribution

8.—(1) Subject to sub-paragraphs (3) and (4), Part II above, except paragraphs 3, 4(1), (2), (3)(a) and (c), 5(4), (7), (8) and (9), and 6(2)(d), shall apply with the necessary modifications for the ascertainment of the spouse's contribution as it applies for the ascertainment of the parental contribution, references to the parent being construed, except where the context otherwise requires, as references to the eligible student's spouse within the meaning of paragraph 7 and, unless the context otherwise requires, this Part shall be construed as one with the said Part II.

(2) The spouse's contribution shall be in any case in which the residual income is £20,480 or more, £45 with the addition of £1 for every complete £8 by which it exceeds £20,480, reduced in any such case by £81 in respect of each child of the eligible student who is dependent on him or his spouse on the first day of the year for which the contribution falls to be ascertained; and in any case in which the residual income is less than £20,480 the spouse's contribution shall be nil; provided that the amount of the spouse's contribution shall in no case exceed £7,185.

(3) This sub-paragraph applies if the eligible student marries or starts living with a person as their husband or wife within the meaning of paragraph 7 during any academic year for which the contribution falls to be ascertained. The contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the date of the marriage or their starting to live together and whichever is the earlier of the end of that year and the end of the course.

(4) This sub-paragraph applies if the eligible student's marriage terminates or if the student ceases living with a person as their husband or wife within the meaning of paragraph 7 during any academic year for which the contribution falls to be ascertained. The contribution for that year shall be the fraction of the sum ascertained in accordance with the provisions of sub-paragraphs (1) and (2) of which the denominator is 52 and the numerator is the number of complete weeks between the beginning of that year and the termination of the marriage or their ceasing to live together.

(5) In accordance with the provisions of this Part, more than one contribution may be applicable in any academic year.

SCHEDULE 4

Regulation 2(1)

Relevant Institutions of Higher Education in the Republic of Ireland

All Hallows College, Drumcondra

Church of Ireland College of Education, Dublin

Colaiste Mhuire, Marino, Dublin
Dublin Institute of Technology
Dun Laoghaire College of Art, Design and Technology
Froebel College of Education, Sion Hill, Co Dublin
Institute of Technology, Athlone
Institute of Technology, Blanchardstown
Institute of Technology, Carlow
Institute of Technology, Cork
Institute of Technology, Dundalk
Institute of Technology, Galway/Mayo
Institute of Technology, Letterkenny
Institute of Technology, Limerick
Institute of Technology, Sligo
Institute of Technology, Tallaght
Institute of Technology, Tralee
Mary Immaculate College of Education, Limerick
Mater Dei Institute of Education, Dublin
Milltown Institute of Theology and Philosophy, Dublin
Montessori College, (A.M.I.), Mount St Mary's, Dublin
National College of Art and Design, Dublin
National College of Ireland, Dublin
National University of Ireland, Maynooth
Pontifical University of Maynooth
Royal College of Surgeons in Ireland
Shannon College of Hotel Management, Co Clare
St Angela's College, Lough Gill, Sligo
St Catherine's College, Sion Hill, Co Dublin
St Patrick's College, Carlow
St Patrick's College of Education, Drumcondra, Dublin
Tipperary Rural and Business Development Institute
Waterford Institute of Technology